

**PART 2000—ADMINISTRATIVE
PROCEDURES [RESERVED]**

**PART 2001—CLASSIFIED NATIONAL
SECURITY INFORMATION**

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**APPENDIX A TO PART 2001—INTERAGENCY SE-
CURITY CLASSIFICATION APPEALS PANEL
BYLAWS.**

AUTHORITY: Section 5.2 (a) and (b), and section 5.4., E.O. 12958, 60 FR 19825, April 20, 1995.

SOURCE: 60 FR 53492, Oct. 13, 1995, unless otherwise noted.

Subpart A—Classification

§ 2001.10 Classification definitions and standards [1.1 and 1.2].¹

(a) *Definitions.* (1) An *original classification authority with jurisdiction over the information* includes:

- (i) The official who authorized the original classification, if that official is still serving in the same position;
- (ii) The originator's current successor in function;
- (iii) A supervisory official of either; or
- (iv) The senior agency official under Executive Order 12958 ("the Order").

(2) *Permanently valuable information* or *permanent historical value* refers to information contained in:

- (i) Records that have been accessioned into the National Archives of the United States;
- (ii) Records that have been scheduled as permanent under a records retention schedule approved by the National Archives and Records Administration (NARA); and
- (iii) Presidential historical materials, presidential records or donated historical materials located in the National Archives of the United States, a presidential library, or any other approved repository.

(b) *Identifying or describing damage to the national security.* Section 1.2(a) of the Order sets forth the conditions for classifying information in the first instance. One of these conditions, the ability to identify or describe the damage to the national security, is critical to the process of making an original classification decision. There is no requirement, at the time of the decision, for the original classification authority to prepare a written description of such damage. However, the original classification authority must be able to support the decision in writing, including identifying or describing the damage, should the classification decision become the subject of a challenge or access demand.

¹Bracketed references pertain to related sections of Executive Order 12958.

§ 2001.11 Classification authority [1.4].

(a) *General.* Agencies with original classification authority shall establish a training program for original classifiers in accordance with subpart D of this part.

(b) *Requests for original classification authority.* Agencies not possessing such authority shall forward requests to the Director of the Information Security Oversight Office (ISOO). The agency head must make the request and shall provide a specific justification of the need for this authority. The Director of ISOO shall forward the request, along with the Director's recommendation, to the President through the Director of the Office of Management and Budget within 30 days. Agencies wishing to increase their assigned level of original classification authority shall forward requests in accordance with the procedures of this section.

§ 2001.12 Duration of classification [1.6].

(a) *Determining duration of classification for information originally classified under the Order—(1) Establishing duration of classification.* When determining the duration of classification for information originally classified under this Order, an original classification authority shall follow the sequence listed in paragraphs (a)(1)(i), (ii), and (iii) of this section.

(i) The original classification authority shall attempt to determine a date or event that is less than 10 years from the date of original classification and which coincides with the lapse of the information's national security sensitivity, and shall assign such date or event as the declassification instruction.

(ii) If unable to determine a date or event of less than 10 years, the original classification authority shall ordinarily assign a declassification date that is 10 years from the date of the original classification decision.

(iii) The original classification authority may assign an exemption designation to the information only if the information qualifies for exemption from automatic declassification as described in section 1.6(d) of the Order. Unless declassified earlier, such information contained in records deter-

mined by the Archivist of the United States to be permanently valuable shall remain classified for 25 years from the date of its origin, at which time it will be subject to section 3.4 of the Order.

(2) *Extending duration of classification for information originally classified under the Order.* Extensions of classification are not automatic. If an original classification authority with jurisdiction over the information does not extend the classification of information assigned a date or event for declassification, the information is automatically declassified upon the occurrence of the date or event. If an original classification authority has assigned a date or event for declassification that is 10 years or less from the date of classification, an original classification authority with jurisdiction over the information may extend the classification duration of such information for additional periods not to exceed 10 years at a time.

(i) For information in records determined to have permanent historical value, successive extensions may not exceed a total of 25 years from the date of the information's origin. Continued classification of this information beyond 25 years is governed by section 3.4 of the Order.

(ii) For information in records not determined to have permanent historical value, successive extensions may exceed 25 years from the date of the information's origin.

(3) *Conditions for extending classification.* When extending the duration of classification, the original classification authority must:

(i) Be an original classification authority with jurisdiction over the information;

(ii) Ensure that the information continues to meet the standards for classification under the Order; and

(iii) Make reasonable attempts to notify all known holders of the information.

(b) *Information classified under prior orders—(1) Specific date or event.* Unless declassified earlier, information marked with a specific date or event for declassification under a prior order is automatically declassified upon that

date or event. However, if the information is contained in records determined by the Archivist of the United States to be permanently valuable, and the prescribed date or event will take place more than 25 years from the information's origin, the declassification of the information will instead be subject to section 3.4 of the Order.

(2) *Indefinite duration of classification.* For information marked "Originating Agency's Determination Required," its acronym "OADR," or with some other marking indicating an indefinite duration of classification under a prior order:

(i) A declassification authority, as defined in section 3.1 of the Order, may declassify it;

(ii) An authorized original classification authority with jurisdiction over the information may re-mark the information to establish a duration of classification consistent with the requirements for information originally classified under the Order, as provided in paragraph (a) of this section; or

(iii) Unless declassified earlier, such information contained in records determined by the Archivist of the United States to be permanently valuable shall remain classified for 25 years from the date of its origin, at which time it will be subject to section 3.4 of the Order.

(c) *Foreign government information.* The declassifying agency is the agency that initially received or classified the information. When foreign government information is being considered for declassification or appears to be subject to automatic declassification, the declassifying agency shall determine whether the information is subject to a treaty or international agreement that would prevent its declassification at that time. Depending on the age of the information and whether it is contained in permanently valuable records, the declassifying agency shall also determine if another exemption under section 1.6(d) (other than section 1.6(d)(5)) or 3.4(b) of the Order, such as the exemptions that pertain to United States foreign relations, may apply to the information. If the declassifying agency believes such an exemption may apply, it should consult with any other concerned agencies in making its

declassification determination. The declassifying agency or the Department of State, as appropriate, should consult with the foreign government prior to declassification.

(d) *Determining when information is subject to automatic declassification.* The "date of the information's origin" or "the information's origin," as used in the Order and this part, pertains to the date that specific information, which is contemporaneously or subsequently classified, is first recorded in an agency's records, or in presidential historical materials, presidential records or donated historical materials. The following examples illustrate this process:

Example 1. An agency first issues a classification guide on the F-99 aircraft on October 20, 1995. The guide states that the fact that the F-99 aircraft has a maximum velocity of 500 m.p.h. shall be classified at the "Secret" level for a period of ten years. A document dated July 10, 1999, is classified because it includes the maximum velocity of the F-99. The document should be marked for declassification on October 20, 2005, ten years after the specific information was first recorded in the guide, not on July 10, 2009, ten years after the derivatively classified document was created.

Example 2. An agency classification guide issued on October 20, 1995, states that the maximum velocity of any fighter aircraft shall be classified at the "Secret" level for a period of ten years. The agency first records the specific maximum velocity of the new F-88 aircraft on July 10, 1999. The document should be marked for declassification on July 10, 2009, ten years after the specific information is first recorded, and not on October 20, 2005, ten years after the date of the guide's generic instruction.

§ 2001.13 Classification challenges [1.9].

(a) *Challenging classification.* Authorized holders wishing to challenge the classification status of information shall present such challenges to an original classification authority with jurisdiction over the information. An authorized holder is any individual, including an individual external to the agency, who has been granted access to specific classified information in accordance with section 4.2(g) of the Order. A formal challenge under this provision must be in writing, but need not be any more specific than to question why information is or is not classified, or is classified at a certain level.

(b) *Agency procedures.* (1) Because the Order encourages authorized holders to challenge classification as a means for promoting proper and thoughtful classification actions, agencies shall ensure that no retribution is taken against any authorized holders bringing such a challenge in good faith.

(2) Agencies shall establish a system for processing, tracking and recording formal classification challenges made by authorized holders. Agencies shall consider classification challenges separately from Freedom of Information Act or other access requests, and shall not process such challenges in turn with pending access requests.

(3) The agency shall provide an initial written response to a challenge within 60 days. If the agency is unable to respond to the challenge within 60 days, the agency must acknowledge the challenge in writing, and provide a date by which the agency will respond. The acknowledgment must include a statement that if no agency response is received within 120 days, the challenger has the right to forward the challenge to the Interagency Security Classification Appeals Panel for a decision. The challenger may also forward the challenge to the Interagency Security Classification Appeals Panel if an agency has not responded to an internal appeal within 90 days of the agency's receipt of the appeal. Agency responses to those challenges it denies shall include the challenger's appeal rights to the Interagency Security Classification Appeals Panel.

(4) Whenever an agency receives a classification challenge to information that has been the subject of a challenge within the past two years, or that is the subject of pending litigation, the agency is not required to process the challenge beyond informing the challenger of this fact and of the challenger's appeal rights, if any.

(c) *Additional considerations.* (1) Challengers and agencies shall attempt to keep all challenges, appeals and responses unclassified. However, classified information contained in a challenge, an agency response, or an appeal shall be handled and protected in accordance with the Order and its implementing directives. Information being challenged for classification shall re-

main classified unless and until a final decision is made to declassify it.

(2) The classification challenge provision is not intended to prevent an authorized holder from informally questioning the classification status of particular information. Such informal inquiries should be encouraged as a means of holding down the number of formal challenges.

§ 2001.14 Classification guides [2.3].

(a) *Preparation of classification guides.* Originators of classification guides are encouraged to consult users of guides for input when developing or updating guides. When possible, originators of classification guides are encouraged to communicate within their agencies and with other agencies that are developing guidelines for similar activities to ensure the consistency and uniformity of classification decisions. Each agency shall maintain a list of its classification guides in use.

(b) *General content of classification guides.* Classification guides shall, at a minimum:

(1) Identify the subject matter of the classification guide;

(2) Identify the original classification authority by name or personal identifier, and position;

(3) Identify an agency point-of-contact or points-of-contact for questions regarding the classification guide;

(4) Provide the date of issuance or last review;

(5) State precisely the elements of information to be protected;

(6) State which classification level applies to each element of information, and, when useful, specify the elements of information that are unclassified;

(7) State, when applicable, special handling caveats;

(8) Prescribe declassification instructions or the exemption category from automatic declassification for each element of information;

(9) Specify, when citing the exemption category listed in section 1.6(d)(8) of the Order, the applicable statute, treaty or international agreement; and

(10) State a concise reason for classification which, at a minimum, cites the applicable classification category or categories in section 1.5 of the Order.

(c) *Dissemination of classification guides.* Classification guides shall be disseminated as widely as necessary to ensure the proper and uniform derivative classification of information.

(d) *Reviewing and updating classification guides.* (1) Classification guides, including guides created under prior orders, shall be reviewed and updated as circumstances require, but, in any event, at least once every five years. Updated instructions for guides first created under prior orders shall comply with the requirements of the Order and this part.

(2) Originators of classification guides are encouraged to consult the users of guides for input when reviewing or updating guides. Also, users of classification guides are encouraged to notify the originator of the guide when they acquire information that suggests the need for change in the instructions contained in the guide.

Subpart B—Identification and Markings

§ 2001.20 General [1.7].

A uniform security classification system requires that standard markings be applied to classified information. Except in extraordinary circumstances, or as approved by the Director of ISOO, the marking of classified information created after October 14, 1995, shall not deviate from the following prescribed formats. If markings cannot be affixed to specific classified information or materials, the originator shall provide holders or recipients of the information with written instructions for protecting the information. Markings shall be uniformly and conspicuously applied to leave no doubt about the classified status of the information, the level of protection required, and the duration of classification.

§ 2001.21 Original classification [1.7(a)].

(a) *Primary markings.* On the face of each originally classified document, including electronic media, the classifier shall apply the following markings.

(1) *Classification authority.* The name or personal identifier, and position title of the original classifier shall ap-

pear on the “Classified By” line. An example might appear as:

Classified By: David Smith, Chief, Division 5
or
Classified By: ID#IMNO1, Chief, Division 5

(2) *Agency and office of origin.* If not otherwise evident, the agency and office of origin shall be identified and placed below the name on the “Classified By” line. An example might appear as:

Classified By: David Smith, Chief, Division 5
Department of Good Works, Office of Administration

(3) *Reason for classification.* The original classifier shall identify the reason(s) for the decision to classify. The classifier shall include, at a minimum, a brief reference to the pertinent classification category(ies), or the number 1.5 plus the letter(s) that corresponds to that classification category in section 1.5 of the Order.

(i) These categories, as they appear in the Order, are as follows:

- (a) military plans, weapons, or operations;
- (b) foreign government information;
- (c) intelligence activities (including special activities), intelligence sources or methods, or cryptology;
- (d) foreign relations or foreign activities of the United States, including confidential sources;
- (e) scientific, technological, or economic matters relating to the national security;
- (f) United States Government programs for safeguarding nuclear materials or facilities; or
- (g) vulnerabilities or capabilities of systems, installations, projects or plans relating to the national security.

(ii) An example might appear as:

Classified By: David Smith, Chief, Division 5,
Department of Good Works, Office of Administration
Reason: Vulnerabilities or capabilities of plans relating to the national security or
Reason: 1.5(g)

(iii) When the reason for classification is not apparent from the content of the information, e.g., classification by compilation, the classifier shall provide a more detailed explanation of the reason for classification.

(4) *Declassification instructions.* The duration of the original classification

decision shall be placed on the "Declassify On" line. The classifier will apply one of the following instructions.

(i) The classifier will apply a date or event for declassification that corresponds to the lapse of the information's national security sensitivity, which may not exceed 10 years from the date of the original decision. When linking the duration of classification to a specific date or event, mark that date or event as:

Classified By: David Smith, Chief, Division 5,
Department of Good Works, Office of Administration
Reason: 1.5(g)
Declassify On: October 14, 2004 or
Declassify On: Completion of Operation

(ii) When a specific date or event within 10 years cannot be established, the classifier will apply the date that is 10 years from the date of the original decision. For example, on a document that contains information classified on October 14, 1995, mark the "Declassify On" line as:

Classified By: David Smith, Chief, Division 5,
Department of Good Works, Office of Administration
Reason: 1.5(g)
Declassify On: October 14, 2005

(iii) Upon the determination that the information must remain classified beyond 10 years, the classifier will apply the letter "X" plus a brief recitation of the exemption category(ies), or the letter "X" plus the number that corresponds to that exemption category(ies) in section 1.6(d) of the Order.

(A) Exemption categories in E.O. 12958.

X1: reveal an intelligence source, method, or activity, or a cryptologic system or activity;

X2: reveal information that would assist in the development or use of weapons of mass destruction;

X3: reveal information that would impair the development or use of technology within a United States weapons system;

X4: reveal United States military plans, or national security emergency preparedness plans;

X5: reveal foreign government information;

X6: damage relations between the United States and a foreign government, reveal a confidential source, or seriously undermine diplomatic activities that are reasonably expected to be ongoing for a period greater

than that provided in paragraph (b) above, [section 1.6(b) of the Order];

X7: impair the ability of responsible United States Government officials to protect the President, the Vice President, and other individuals for whom protection services, in the interest of national security, are authorized; or

X8: violate a statute, treaty, or international agreement.

(B) Example. A document containing information exempted from automatic declassification may appear as:

Classified By: David Smith, Chief, Division 5,
Department of Good Works, Office of Administration
Reason: 1.5(g)
Declassify On: X-U.S. military plans or
Declassify On: X4

(b) *Overall marking.* The highest level of classified information contained in a document shall appear in a way that will distinguish it clearly from the informational text.

(1) Conspicuously place the overall classification at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, and on the outside of the back cover (if any).

(2) For documents containing information classified at more than one level, the overall marking shall be the highest level. For example, if a document contains some information marked "Secret" and other information marked "Confidential," the overall marking would be "Secret."

(3) Each interior page of a classified document shall be marked at the top and bottom either with the highest level of classification of information contained on that page, including the designation "Unclassified" when it is applicable, or with the highest overall classification of the document.

(c) *Portion marking.* Each portion of a document, ordinarily a paragraph, but including subjects, titles, graphics and the like, shall be marked to indicate its classification level by placing a parenthetical symbol immediately preceding or following the portion to which it applies.

(1) To indicate the appropriate classification level, the symbols "(TS)" for Top Secret, "(S)" for Secret, "(C)" for Confidential, and "(U)" for Unclassified shall be used.

(2) Unless the original classification authority indicates otherwise on the document, each classified portion of a document exempted from automatic declassification shall be presumed to be exempted from automatic declassification also.

(3) An agency head or senior agency official may request a waiver from the portion marking requirement for a specific category of information. Such a request shall be submitted to the Director of ISOO and should include the reasons that the benefits of portion marking are outweighed by other factors. Statements citing administrative burden alone will ordinarily not be viewed as sufficient grounds to support a waiver.

(d) *Classification extensions.* (1) An original classification authority may extend the duration of classification for successive periods not to exceed 10 years at a time. For information contained in records determined to be permanently valuable, multiple extensions shall not exceed 25 years from the date of the information's origin.

(2) The "Declassify On" line shall be revised to include the new declassification instructions, and shall include the identity of the person authorizing the extension and the date of the action.

(3) The office of origin shall make reasonable attempts to notify all holders of such information. Classification guides shall be updated to reflect such revisions.

(4) An example of an extended duration of classification may appear as:

Classified By: David Smith, Chief, Division 5,
Department of Good Works, Office of Administration

Reason: 1.5(g)

Declassify On: Classification extended on
December 1, 2000, until December 1, 2010, by
David Jones, Chief, Division 5

(e) *Marking information exempted from automatic declassification at 25 years.* (1) When an agency head or senior agency official exempts permanently valuable information from automatic declassification at 25 years, the "Declassify On" line shall be revised to include the symbol "25X" plus a brief reference to the pertinent exemption category(ies) or the number(s) that corresponds to that category(ies) in section 3.4(b) of the Order. Other than when the exemp-

tion pertains to the identity of a confidential human source, or a human intelligence source, the revised "Declassify On" line shall also include the new date or event for declassification.

(2) The pertinent exemptions, using the language of section 3.4(b) of the Order, are:

25X1: reveal the identity of a confidential human source, or reveal information about the application of an intelligence source or method, or reveal the identity of a human intelligence source when the unauthorized disclosure of that source would clearly and demonstrably damage the national security interests of the United States;

25X2: reveal information that would assist in the development or use of weapons of mass destruction;

25X3: reveal information that would impair U.S. cryptologic systems or activities;

25X4: reveal information that would impair the application of state-of-the-art technology within a U.S. weapon system;

25X5: reveal actual U.S. military war plans that remain in effect;

25X6: reveal information that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States;

25X7: reveal information that would clearly and demonstrably impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services, in the interest of national security, are authorized;

25X8: reveal information that would seriously and demonstrably impair current national security emergency preparedness plans; or

25X9: violate a statute, treaty, or international agreement.

(3) The pertinent portion of the marking would appear as:

Declassify On: 25X-State-of-the-art technology within U.S. weapon system, October 1, 2010 or

Declassify On: 25X4, October 1, 2010

(4) Documents should not be marked with a "25X" marking until the agency has been informed that the President or the Interagency Security Classification Appeals Panel concurs with the proposed exemption.

(5) Agencies need not apply a "25X" marking to individual documents contained in a file series exempted from

automatic declassification under section 3.4(c) of the Order until the individual document is removed from the file.

§ 2001.22 Derivative classification [2.2].

(a) *General.* Information classified derivatively on the basis of source documents or classification guides shall bear all markings prescribed in § 2001.20 and § 2001.21, except as provided in this section. Information for these markings shall be carried forward from the source document or taken from instructions in the appropriate classification guide.

(b) *Source of derivative classification.* (1) The derivative classifier shall concisely identify the source document or the classification guide on the "Derived From" line, including the agency and, where available, the office of origin, and the date of the source or guide. An example might appear as:

Derived From: Memo, "Funding Problems," October 20, 1995, Ofc. of Admin., Department of Good Works or

Derived From: CG No. 1, Department of Good Works, dated October 20, 1995

(i) When a document is classified derivatively on the basis of more than one source document or classification guide, the "Derived From" line shall appear as:

Derived From: Multiple Sources

(ii) The derivative classifier shall maintain the identification of each source with the file or record copy of the derivatively classified document. When practicable, this list should be included in or with all copies of the derivatively classified document.

(2) A document derivatively classified on the basis of a source document that is itself marked "Multiple Sources" shall cite the source document on its "Derived From" line rather than the term "Multiple Sources." An example might appear as:

Derived From: Report entitled, "New Weapons," dated October 20, 1995, Department of Good Works, Office of Administration

(c) *Reason for classification.* The reason for the original classification decision, as reflected in the source document(s) or classification guide, is not required to be transferred in a deriva-

tive classification action. If included, however, it shall conform to the standards in § 2001.21(a)(3).

(d) *Declassification instructions.* (1) The derivative classifier shall carry forward the instructions on the "Declassify On" line from the source document to the derivative document, or the duration instruction from the classification guide.

(2) When a document is classified derivatively on the basis of more than one source document or more than one element of a classification guide, the "Declassify On" line shall reflect the longest duration of any of its sources.

(i) When a document is classified derivatively from a source document(s) or classification guide that contains the declassification instruction, "Originating Agency's Determination Required," or "OADR," unless otherwise instructed by the original classifier, the derivative classifier shall carry forward:

(A) The fact that the source document(s) was marked with this instruction; and

(B) The date of origin of the most recent source document(s), classification guide, or specific information, as appropriate to the circumstances.

(ii) An example might appear as:

Declassify On: Source marked "OADR", Date of source: October 20, 1990

(iii) This marking will permit the determination of when the classified information is 25 years old and, if permanently valuable, subject to automatic declassification under section 3.4 of the Order.

(e) *Overall marking.* The derivative classifier shall conspicuously mark the classified document with the highest level of classification of information included in the document, as provided in § 2001.21(b).

(f) *Portion marking.* Each portion of a derivatively classified document shall be marked in accordance with its source, and as provided in § 2001.21(c).

§ 2001.23 Additional requirements [1.7].

(a) *Marking prohibitions.* Markings other than "Top Secret," "Secret," and "Confidential," such as "For Official Use Only," or "Limited Official

Use,” shall not be used to identify classified national security information. No other term or phrase shall be used in conjunction with these markings, such as “Secret Sensitive” or “Agency Confidential,” to identify classified national security information. The terms “Top Secret,” “Secret,” and “Confidential” should not be used to identify non-classified executive branch information.

(b) *Agency prescribed special markings.* Agencies shall refrain from the use of special markings when they merely restate or emphasize the principles and standards of the Order and this part. Upon request, the senior agency official shall provide the Director of ISOO with a written explanation for the use of agency special markings.

(c) *Transmittal documents.* A transmittal document shall indicate on its face the highest classification level of any classified information attached or enclosed. The transmittal shall also include conspicuously on its face the following or similar instructions, as appropriate:

Unclassified When Classified Enclosure Removed or Upon Removal of Attachments,
This Document is (Classification Level)

(d) *Foreign government information.* Documents that contain foreign government information shall include the marking, “This Document Contains (indicate country of origin) Information.” The portions of the document that contain the foreign government information shall be marked to indicate the government and classification level, e.g., “(UK-C).” If the identity of the specific government must be concealed, the document shall be marked, “This Document Contains Foreign Government Information,” and pertinent portions shall be marked “FGI” together with the classification level, e.g., “(FGI-C).” In such cases, a separate record that identifies the foreign government shall be maintained in order to facilitate subsequent declassification actions. When classified records are transferred to the National Archives and Records Administration for storage or archival purposes, the accompanying documentation shall, at a minimum, identify the boxes that contain foreign government informa-

tion. If the fact that information is foreign government information must be concealed, the markings described in this paragraph shall not be used and the document shall be marked as if it were wholly of U.S. origin.

(e) *Working papers.* A working paper is defined as documents or materials, regardless of the media, which are expected to be revised prior to the preparation of a finished product for dissemination or retention. Working papers containing classified information shall be dated when created, marked with the highest classification of any information contained in them, protected at that level, and destroyed when no longer needed. When any of the following conditions applies, working papers shall be controlled and marked in the same manner prescribed for a finished document at the same classification level:

(1) Released by the originator outside the originating activity;

(2) Retained more than 180 days from the date of origin; or

(3) Filed permanently.

(f) *Other material.* Bulky material, equipment and facilities, etc., shall be clearly identified in a manner that leaves no doubt about the classification status of the material, the level of protection required, and the duration of classification. Upon a finding that identification would itself reveal classified information, such identification is not required. Supporting documentation for such a finding must be maintained in the appropriate security facility and in any applicable classification guide.

(g) *Unmarked materials.* Information contained in unmarked records, or presidential or related materials, and which pertains to the national defense or foreign relations of the United States and has been maintained and protected as classified information under prior orders shall continue to be treated as classified information under the Order, and is subject to its provisions regarding declassification.

§ 2001.24 Declassification markings [Reserved].**Subpart C—Self-Inspections****§ 2001.30 General [5.6].**

(a) *Purpose.* This subpart sets standards for establishing and maintaining an ongoing agency self-inspection program, which shall include the periodic review and assessment of the agency's classified product. "Self-inspection" means the internal review and evaluation of individual agency activities and the agency as a whole with respect to the implementation of the program established under the Order.

(b) *Applicability.* These standards are binding on all executive branch agencies that create or handle classified information. Pursuant to Executive Order 12829, the National Industrial Security Program Operating Manual (NISPOM) prescribes the security requirements, restrictions and safeguards applicable to industry, including the conduct of contractor self-inspections. The standards established in the NISPOM should be consistent with the standards prescribed in Executive Order 12958 and this part.

(c) *Responsibility.* The senior agency official is responsible for the agency's self-inspection program. The senior agency official shall designate agency personnel to assist in carrying out this responsibility.

(d) *Approach.* The official(s) responsible for the program shall determine the means and methods for the conduct of self-inspections. These may include:

- (1) A review of relevant security directives, guides and instructions;
- (2) Interviews with producers and users of classified information;
- (3) A review of access and control records and procedures; and
- (4) A review of a sample of classified documents generated by agency activities.

(e) *Frequency.* The official(s) responsible for the program shall set the frequency of self-inspections on the basis of program needs and the degree of classification activity. Activities that originate significant amounts of classified information should conduct at least one document review per year.

(f) *Reporting.* The format for documenting findings shall be set by the official(s) responsible for the program.

§ 2001.31 Coverage [5.6(c)(4)].

(a) *General.* These standards are not all-inclusive. Each agency may expand upon the coverage according to program and policy needs. Each self-inspection of an agency activity need not include all the elements covered in this section. Agencies without original classification authority need not include in their self-inspections those elements of coverage pertaining to original classification.

(b) *Elements of coverage.* (1) Original classification.

(i) Evaluate original classifiers' general understanding of the process of original classification, including the:

(A) Applicable standards for classification;

(B) Levels of classification and the damage criteria associated with each; and

(C) Required classification markings.

(ii) Determine if delegations of original classification authority conform with the requirements of the Order, including whether:

(A) Delegations are limited to the minimum required to administer the program;

(B) Designated original classifiers have a demonstrable and continuing need to exercise this authority;

(C) Delegations are in writing and identify the official by name or position title; and

(D) New requests for delegation of classification authority are justified.

(iii) Assess original classifiers' familiarity with the duration of classification requirements, including:

(A) Assigning a specific date or event for declassification when possible;

(B) Establishing ordinarily a maximum 10-year duration of classification when an earlier date or event cannot be determined;

(C) Limiting extensions of classification for specific information for successive periods not to exceed 10 years at a time; and

(D) Exempting from declassification within 10 years specific information as provided in section 1.6 of the Order.

(iv) Conduct a review of a sample of classified information generated by the inspected activity to determine the propriety of classification and the application of proper and full markings.

(v) Evaluate classifiers' actions to comply with the standards specified in § 2001.14 and § 2001.53 of this part, relating to classification and declassification guides, respectively.

(vi) Verify observance with the prohibitions on classification and limitations on reclassification.

(vii) Assess whether the agency's classification challenges program meets the requirements of the Order and this part.

(2) Derivative classification. Assess the general familiarity of individuals who classify derivatively with the:

(i) Conditions for derivative classification;

(ii) Requirement to consult with the originator of the information when questions concerning classification arise;

(iii) Proper use of classification guides; and

(iv) Proper and complete application of classification markings to derivatively classified documents.

(3) Declassification.

(i) Verify whether the agency has established, to the extent practical, a system of records management to facilitate public release of declassified documents.

(ii) Evaluate the status of the agency declassification program, including the requirement to:

(A) Comply with the automatic declassification provisions regarding historically valuable records over 25 years old;

(B) Declassify, when possible, historically valuable records prior to accession into the National Archives;

(C) Provide the Archivist with adequate and current declassification guides;

(D) Ascertain that the agency's mandatory review program conforms to established requirements; and

(E) Determine whether responsible agency officials are cooperating with the Archivist in the development and maintenance of a Government-wide database of information that has been declassified.

(4) Safeguarding.

(i) Monitor agency adherence to established safeguarding standards.

(ii) Assess compliance with controls for access to classified information.

(iii) Evaluate the effectiveness of the agency's program in detecting and processing security violations and preventing recurrences.

(iv) Assess compliance with the procedures for identifying, reporting and processing unauthorized disclosures of classified information.

(v) Evaluate the effectiveness of procedures to ensure that:

(A) The originating agency exercises control over the classified information it generates;

(B) Holders of classified information do not disclose information originated by another agency without that agency's authorization; and

(C) Departing or transferred officials return all classified information in their possession to authorized agency personnel.

(5) Security education and training. Evaluate the effectiveness of the agency's security education and training program in familiarizing appropriate personnel with classification procedures; and determine whether the program meets the standards specified in subpart D of this part.

(6) Management and oversight.

(i) Determine whether original classifiers have received prescribed training.

(ii) Verify whether the agency's special access programs:

(A) Adhere to specified criteria in the creation of these programs;

(B) Are kept to a minimum;

(C) Provide for the conduct of internal oversight; and

(D) Include an annual review of each program to determine whether it continues to meet the requirements of the Order.

(iii) Assess whether:

(A) Senior management demonstrates commitment to the success of the program, including providing the necessary resources for effective implementation;

(B) Producers and users of classified information receive guidance with respect to security responsibilities and requirements;

(C) Controls to prevent unauthorized access to classified information are effective;

(D) Contingency plans are in place for safeguarding classified information used in or near hostile areas;

(E) The performance contract or other system used to rate civilian or military personnel includes the management of classified information as a critical element or item to be evaluated in the rating of: Original classifiers; security managers; classification management officers; and security specialists; and other employees significantly involved with classified information; and

(F) A method is in place for collecting information on the costs associated with the implementation of the Order.

Subpart D—Security Education and Training

§ 2001.40 General [5.6].

(a) *Purpose.* This subpart sets standards for agency security education and training programs. Implementation of these standards should:

(1) Ensure that all executive branch employees who create, process or handle classified information have a satisfactory knowledge and understanding about classification, safeguarding, and declassification policies and procedures;

(2) Increase uniformity in the conduct of agency security education and training programs; and

(3) Reduce improper classification, safeguarding and declassification practices.

(b) *Applicability.* These standards are binding on all executive branch departments and agencies that create or handle classified information. Pursuant to Executive Order 12829, the NISPOM prescribes the security requirements, restrictions, and safeguards applicable to industry, including the conduct of contractor security education and training. The standards established in the NISPOM should be consistent with the standards prescribed in Executive Order 12958 and of this part.

(c) *Responsibility.* The senior agency official is responsible for the agency's security education and training program. The senior agency official shall

designate agency personnel to assist in carrying out this responsibility.

(d) *Approach.* Security education and training should be tailored to meet the specific needs of the agency's security program, and the specific roles employees are expected to play in that program. The agency official(s) responsible for the program shall determine the means and methods for providing security education and training. Training methods may include briefings, interactive videos, dissemination of instructional materials, and other media and methods. Agencies shall maintain records about the programs it has offered and employee participation in them.

(e) *Frequency.* The frequency of agency security education and training will vary in accordance with the needs of the agency's security classification program. Each agency shall provide some form of refresher security education and training at least annually.

§ 2001.41 Coverage [5.6(c)(3)].

(a) *General.* Each department or agency shall establish and maintain a formal security education and training program which provides for initial and refresher training, and termination briefings. This subpart establishes security education and training standards for original classifiers, declassification authorities, security managers, classification management officers, security specialists, and all other personnel whose duties significantly involve the creation or handling of classified information. These standards are not intended to be all-inclusive. The official responsible for the security education and training program may expand or modify the coverage provided in this part according to the agency's program and policy needs.

(b) *Elements of initial coverage.* All cleared agency personnel shall receive initial training on basic security policies, principles and practices. Such training must be provided in conjunction with the granting of a security clearance, and prior to granting access to classified information. The following areas should be considered for inclusion in initial briefings.

(1) Roles and responsibilities.

(i) What are the responsibilities of the senior agency official, classification management officers, the security manager and the security specialist?

(ii) What are the responsibilities of agency employees who create or handle classified information?

(iii) Who should be contacted in case of questions or concerns about classification matters?

(2) Elements of classifying and declassifying information.

(i) What is classified information and why is it important to protect it?

(ii) What are the levels of classified information and the damage criteria associated with each level?

(iii) What are the prescribed classification markings and why is it important to have classified information fully and properly marked?

(iv) What are the general requirements for declassifying information?

(v) What are the procedures for challenging the classification status of information?

(3) Elements of safeguarding.

(i) What are the proper procedures for safeguarding classified information?

(ii) What constitutes an unauthorized disclosure and what are the penalties associated with these disclosures?

(iii) What are the general conditions and restrictions for access to classified information?

(iv) What should an individual do when he or she believes safeguarding standards may have been violated?

(c) *Specialized security education and training.* Original classifiers, authorized declassification authorities, individuals specifically designated as responsible for derivative classification, classification management officers, security managers, security specialists, and all other personnel whose duties significantly involve the creation or handling of classified information should receive more detailed training. This training should be provided before or concurrent with the date the employee assumes any of the positions listed above, but in any event no later than six months from that date. Coverage considerations should include:

(1) Original classifiers.

(i) What is the difference between original and derivative classification?

(ii) Who can classify information originally?

(iii) What are the standards that a designated classifier must meet to classify information?

(iv) What is the process for determining duration of classification?

(v) What are the prohibitions and limitations on classifying information?

(vi) What are the basic markings that must appear on classified information?

(vii) What are the general standards and procedures for declassification?

(2) Declassification authorities other than original classifiers.

(i) What are the standards, methods and procedures for declassifying information under Executive Order 12958?

(ii) What are the standards for creating and using agency declassification guides?

(iii) What is contained in the agency's automatic declassification plan?

(iv) What are the agency responsibilities for the establishment and maintenance of a declassification database?

(3) Individuals specifically designated as responsible for derivative classification, security managers, classification management officers, security specialists or any other personnel whose duties significantly involve the management and oversight of classified information.

(i) What are the original and derivative classification processes and the standards applicable to each?

(ii) What are the proper and complete classification markings, as described in subpart B of this part?

(iii) What are the authorities, methods and processes for downgrading and declassifying information?

(iv) What are the methods for the proper use, storage, reproduction, transmission, dissemination and destruction of classified information?

(v) What are the requirements for creating and updating classification and declassification guides?

(vi) What are the requirements for controlling access to classified information?

(vii) What are the procedures for investigating and reporting instances of security violations, and the penalties associated with such violations?

(viii) What are the requirements for creating, maintaining, and terminating

special access programs, and the mechanisms for monitoring such programs?

(ix) What are the procedures for the secure use, certification and accreditation of automated information systems and networks which use, process, store, reproduce, or transmit classified information?

(x) What are the requirements for oversight of the security classification program, including agency self-inspections?

(d) *Refresher security education and training.* Agencies shall provide refresher training to employees who create, process or handle classified information. Refresher training should reinforce the policies, principles and procedures covered in initial and specialized training. Refresher training should also address the threat and the techniques employed by foreign intelligence activities attempting to obtain classified information, and advise personnel of penalties for engaging in espionage activities. Refresher training should also address issues or concerns identified during agency self-inspections. When other methods are impractical, agencies may satisfy the requirement for refresher training by means of audiovisual products or written materials.

(e) *Termination briefings.* Each agency shall ensure that each employee granted access to classified information who leaves the service of the agency receives a termination briefing. Also, each agency employee whose clearance is withdrawn must receive such a briefing. At a minimum, termination briefings must impress upon each employee: The continuing responsibility not to disclose any classified information to which the employee had access and the potential penalties for non-compliance; and the obligation to return to the appropriate agency official all classified documents and materials in the employee's possession.

(f) *Other security education and training.* Agencies are encouraged to develop additional security education and training according to program and policy needs. Such security education and training could include:

(1) Practices applicable to U.S. officials traveling overseas;

(2) Procedures for protecting classified information processed and stored in automated information systems;

(3) Methods for dealing with uncleared personnel who work in proximity to classified information;

(4) Responsibilities of personnel serving as couriers of classified information; and

(5) Security requirements that govern participation in international programs.

Subpart E—Declassification

§ 2001.50 Definition [3.1].

A *file series* is a body of related records created or maintained by an agency, activity, office or individual. The records may be related by subject, topic, form, function, or filing scheme. An agency, activity, office, or individual may create or maintain several different file series, each serving a different function. Examples may include a subject file, alphabetical name index, chronological file, or a record set of agency publications. File series frequently correspond to items on a NARA-approved agency records schedule. Some very large series may contain several identifiable sub-series, and it may be appropriate to treat sub-series as discrete series for the purposes of the Order.

§ 2001.51 Automatic declassification [3.4].

(a) *General.* All departments and agencies that have original classification authority, or previously had original classification authority, and maintain records appraised as having permanent historical value that contain information classified by that agency shall comply with the automatic declassification provisions of the Order. All agencies with original classification authority shall cooperate with NARA in carrying out an automatic declassification program involving accessioned Federal records, presidential papers and records, and donated historical materials under the control of the Archivist of the United States. The Archivist will not declassify information created by another agency without the prior consent of that agency.

(b) *Presidential records.* The Archivist of the United States shall establish procedures for the declassification of presidential or White House materials accessioned into the National Archives of the United States or maintained in the presidential libraries.

(c) *Transferred information.* In the case of classified information transferred in conjunction with a transfer of functions, and not merely for storage or archival purposes, the receiving agency shall be deemed to be the originating agency.

(d) *Unofficially transferred information.* In the case of classified information that is not officially transferred as described in paragraph (c), of this section, but that originated in an agency that has ceased to exist and for which there is no successor agency, the Director of ISOO will designate an agency or agencies to act on provisions of the Order.

(e) *Processing records originated by another agency.* When an agency uncovers classified records originated by another agency that appear to meet the criteria for the application of the automatic declassification provisions of the Order, the finding agency should alert the originating agency and seek instruction regarding the handling and disposition of pertinent records.

(f) *Unscheduled records.* Classified information in records that have not been scheduled for disposal or retention by NARA is not subject to section 3.4 of the Order. Classified information in records that are scheduled as permanently valuable when that information is already more than 20 years old shall be subject to the automatic declassification provisions of section 3.4 of the Order five years from the date the records are scheduled. Classified information in records that are scheduled as permanently valuable when that information is less than 20 years old shall be subject to the automatic declassification provisions of section 3.4 of the Order when the information is 25 years old.

(g) *Foreign government information.* The declassifying agency is the agency that initially received or classified the information. When foreign government information appears to be subject to automatic declassification, the declassifying

agency shall determine whether the information is subject to a treaty or international agreement that would prevent its declassification at that time. The declassifying agency shall also determine if another exemption under section 3.4(b) of the Order, such as the exemption that pertains to United States foreign relations, may apply to the information. If the declassifying agency believes such an exemption may apply, it should consult with any other concerned agencies in making its declassification determination. The declassifying agency or the Department of State, as appropriate, should consult with the foreign government prior to declassification.

(h) *Assistance to the Archivist of the United States.* Agencies shall consult with NARA before establishing automatic declassification programs. Agencies shall cooperate with NARA in developing schedules for the declassification of records in the National Archives of the United States and the presidential libraries to ensure that declassification is accomplished in a timely manner. NARA will provide information about the records proposed for automatic declassification. Agencies shall consult with NARA before reviewing records in their holdings to ensure that appropriate procedures are established for maintaining the integrity of the records and that NARA receives accurate information about agency declassification actions when records are transferred to NARA. NARA will provide guidance to the agencies about the requirements for notification of declassification actions on transferred records, box labeling, and identifying exempt information in the records.

(i) *Use of approved declassification guides.* Approved declassification guides may be used as a tool to assist in the exemption from automatic declassification of specific information as provided in section 3.4(d) of the Order. These guides must include additional pertinent detail relating to the exemptions described in section 3.4(b) of the Order, and follow the format required of declassification guides for systematic review as described in § 2001.53 of this part. In order for such

guides to be used in place of the identification of specific information within individual documents, the information to be exempted must be narrowly defined, with sufficient specificity to allow the user to identify the information with precision. Exemptions for general categories of information will not be acceptable. The actual items to be exempted are specific documents. All such declassification guides used in conjunction with section 3.4(d) of the Order must be submitted to the Director of ISOO, serving as Executive Secretary of the Interagency Security Classification Appeals Panel, for approval by the Panel.

(j) *Automatic declassification date.* No later than April 17, 2000, information over 25 years old in unreviewed permanently valuable records in non-exempt file series will be automatically declassified.

(k) *Redaction standard.* Agencies are encouraged but are not required to redact documents that contain information that is exempt from automatic declassification under section 3.4 of the Order, especially if the information that must remain classified comprises a relatively small portion of the document.

(l) *Restricted Data and Formerly Restricted Data.* (1) Restricted Data (RD) and Formerly Restricted Data (FRD) are exempt from the automatic declassification requirements in section 3.4 of the Order because they are classified under the Atomic Energy Act of 1954, as amended. Restricted Data concerns:

- (i) The design, manufacture, or utilization of atomic weapons;
- (ii) The production of special nuclear material, e.g., enriched uranium or plutonium; or
- (iii) The use of special nuclear material in the production of energy.

(2) Formerly Restricted Data is information that is still classified but which has been removed from the Restricted Data category because it is related primarily to the military utilization of atomic weapons.

(3) Any document marked as containing Restricted Data or Formerly Restricted Data shall remain classified indefinitely or shall be referred to the Department of Energy or the Department of Defense for a classification review.

§ 2001.52 Systematic declassification review [3.5].

(a) *Listing of declassification authorities.* Agencies shall maintain a current listing of officials delegated declassification authority by name, position, or other identifier. If possible, this listing shall be unclassified.

(b) *Responsibilities.* Agencies shall establish systematic review programs for those records containing information that is exempt from automatic declassification. Agencies may also conduct systematic review of information contained in permanently valuable records that is less than 25 years old.

§ 2001.53 Declassification guides [3.5(b)].

(a) *Preparation of declassification guides.* Declassification guides shall be prepared to facilitate the declassification of information contained in records determined to be of permanent historical value. When it is sufficiently detailed and understandable, and identified for both purposes, a classification guide may also be used as a declassification guide.

(b) *General content of declassification guides.* Declassification guides shall, at a minimum:

- (1) Identify the subject matter of the declassification guide;
- (2) Identify the original declassification authority by name or personal identifier, and position;
- (3) Provide the date of issuance or last review;
- (4) State precisely the categories or elements of information:
 - (i) To be declassified;
 - (ii) To be downgraded; or
 - (iii) Not to be declassified.
- (5) Identify any related files series that have been exempted from automatic declassification pursuant to section 3.4(c) of the Order;
- (6) To the extent a guide is used in conjunction with the automatic declassification provisions in section 3.4 of the Order, state precisely the elements of information to be exempted from declassification to include:
 - (i) The appropriate exemption category listed in section 3.4(b) of the Order, and, when citing the exemption category listed in section 3.4(b)(9) of

the Order, specify the applicable statute, treaty or international agreement; and

(ii) A date or event for declassification.

(c) *External review.* Agencies shall submit declassification guides for review to the Director of ISOO. To the extent such guides are used in conjunction with the automatic declassification provisions in section 3.4 of the Order, the Director shall submit them for approval by the Interagency Security Classification Appeals Panel.

(d) *Internal review and update.* Agency declassification guides shall be reviewed and updated as circumstances require, but at least once every five years. Each agency shall maintain a list of its declassification guides in use.

§ 2001.54 Mandatory review for declassification [3.6, 3.7].

(a) *U.S. originated information*—(1) *Receipt of requests.* Each agency shall publish in the FEDERAL REGISTER the identity of the person(s) or office(s) to which mandatory declassification review requests should be addressed.

(2) *Processing.* (i) Requests for classified records in the custody of the originating agency. A valid mandatory declassification review request need not identify the requested information by date or title of the responsive records, but must be of sufficient specificity to allow agency personnel to locate the records containing the information sought with a reasonable amount of effort. In responding to mandatory declassification review requests, agencies shall either make a prompt declassification determination and notify the requester accordingly, or inform the requester of the additional time needed to process the request. Agencies shall ordinarily make a final determination within 180 days from the date of receipt. When information cannot be declassified in its entirety, agencies will make reasonable efforts to release, consistent with other applicable law, those declassified portions of the requested information that constitute a coherent segment. Upon denial of an initial request, the agency shall also notify the requester of the right of an administrative appeal, which must be

filed within 60 days of receipt of the denial.

(ii) Requests for classified records in the custody of an agency other than the originating agency. When an agency receives a mandatory declassification review request for records in its possession that were originated by another agency, it shall refer the request and the pertinent records to the originating agency. However, if the originating agency has previously agreed that the custodial agency may review its records, the custodial agency shall review the requested records in accordance with declassification guides or guidelines provided by the originating agency. Upon receipt of a request from the referring agency, the originating agency shall process the request in accordance with this section. The originating agency shall communicate its declassification determination to the referring agency.

(iii) Appeals of denials of mandatory declassification review requests. The agency appellate authority shall normally make a determination within 60 working days following the receipt of an appeal. If additional time is required to make a determination, the agency appellate authority shall notify the requester of the additional time needed and provide the requester with the reason for the extension. The agency appellate authority shall notify the requester in writing of the final determination and of the reasons for any denial.

(iv) Appeals to the Interagency Security Classification Appeals Panel. In accordance with section 5.4 of the Order, the Interagency Security Classification Appeals Panel shall publish in the FEDERAL REGISTER no later than February 12, 1996, the rules and procedures for bringing mandatory declassification appeals before it.

(b) *Foreign government information.* Except as provided in this paragraph, agency heads shall process mandatory declassification review requests for classified records containing foreign government information in accordance with this section. The declassifying agency is the agency that initially received or classified the information. When foreign government information is being considered for declassification,

the declassifying agency shall determine whether the information is subject to a treaty or international agreement that would prevent its declassification at that time. The declassifying agency shall also determine if another exemption under section 1.6(d) of the Order (other than section 1.6(b)(5)), such as the exemption that pertains to United States foreign relations, may apply to the information. If the declassifying agency believes such an exemption may apply, it should consult with any other concerned agencies in making its declassification determination. The declassifying agency or the Department of State, as appropriate, should consult with the foreign government prior to declassification.

(c) *Cryptologic and intelligence information.* Mandatory declassification review requests for cryptologic information and information concerning intelligence activities (including special activities) or intelligence sources or methods shall be processed solely in accordance with special procedures issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

(d) *Fees.* In responding to mandatory declassification review requests for classified records, agency heads may charge fees in accordance with section 9701 of title 31, United States Code. The schedules of fees published in the FEDERAL REGISTER by agencies in implementation of Executive Order 12356 shall remain in effect until revised.

(e) *Assistance to the Department of State.* Heads of agencies should assist the Department of State in its preparation of the *Foreign Relations of the United States* (FRUS) series by facilitating access to appropriate classified materials in their custody and by expediting declassification review of documents proposed for inclusion in the FRUS.

(f) *Requests filed under mandatory declassification review and the Freedom of Information Act.* When a requester submits a request both under mandatory review and the Freedom of Information Act (FOIA), the agency shall require the requester to elect one process or the other. If the requester fails to elect one or the other, the request will be treated as a FOIA request unless the

requested materials are subject only to mandatory review.

(g) *FOIA and Privacy Act requests.* Agency heads shall process requests for declassification that are submitted under the provisions of the FOIA, as amended, or the Privacy Act of 1974, in accordance with the provisions of those Acts.

(h) *Redaction standard.* Agencies shall redact documents that are the subject of an access demand unless the overall meaning or informational value of the document is clearly distorted by redaction.

Subpart F—Reporting

§ 2001.60 Statistical reporting [5.3].

Each agency that creates or handles classified information shall report annually to the Director of ISOO statistics related to its security classification program. The Director shall solicit recommendations from the member agencies of the Security Policy Forum regarding the reporting requirements. The Director will instruct agencies what data elements are required, and how and when they are to be reported.

§ 2001.61 Accounting for costs [5.6(c)(8)].

(a) Information on the costs associated with the implementation of the Order will be collected from the agencies by the Office of Management and Budget (OMB). OMB will provide data to ISOO on the cost estimates for classification-related activities. ISOO will include these cost estimates in its annual report to the President. The agency senior official should work closely with the agency comptroller to ensure that the best estimates are collected.

(b) The Secretary of Defense, acting as the executive agent for the National Industrial Security Program under Executive Order 12829, and consistent with agreements entered into under section 202 of E.O. 12829, will collect cost estimates for classification-related activities of contractors, licensees, certificate holders, and grantees, and report them to ISOO annually. ISOO will include these cost estimates in its annual report to the President.

§ 2001.62 Effective date [6.2].

Part 2001 shall become effective October 14, 1995.

APPENDIX A TO PART 2001—INTER-
AGENCY SECURITY CLASSIFICATION
APPEALS PANEL BYLAWS

ARTICLE I. PURPOSE

The purpose of the Interagency Security Classification Appeals Panel (ISCAP) and these bylaws is to fulfill the functions assigned to the ISCAP by Executive Order 12958, “Classified National Security Information.”

ARTICLE II. AUTHORITY

Executive Order 12958, “Classified National Security Information” (hereafter the “Order”), and its implementing directives.

ARTICLE III. MEMBERSHIP

A. Primary Membership. Appointments under section 5.4(a) of the Order establish the primary membership of the ISCAP.

B. Alternate Membership.

1. Primary members are expected to participate fully in the activities of the ISCAP. The Executive Secretary shall request that each agency or office head represented on the ISCAP also designate in writing addressed to the Chair an alternate to represent his or her agency or office on all occasions when the primary member is unable to participate. When serving for a primary member, an alternate member shall assume all the rights and responsibilities of that primary member, including voting.

2. When a vacancy in the primary membership occurs, the designated alternate shall represent the agency or office until the agency or office head fills the vacancy. The Chair, working through the Executive Secretary, shall take all appropriate measures to encourage the agency or office head to fill a vacancy in the primary membership as quickly as possible.

C. Chair. As provided in section 5.4(a) of the Order, the President shall select the Chair from among the primary members.

D. Vice Chair. The members may elect from among the primary members a Vice Chair who shall:

1. Chair meetings that the Chair is unable to attend; and

2. Serve as Acting Chair during a vacancy in the Chair of the ISCAP.

ARTICLE IV. MEETINGS

A. Purpose. The primary purpose of ISCAP meetings is to discuss and bring formal resolution to matters before the ISCAP.

B. Frequency. As provided in section 5.4(a) of the Order, the ISCAP shall meet at the call of the Chair, who shall schedule meet-

ings as may be necessary for the ISCAP to fulfill its functions in a timely manner. The Chair shall also convene the ISCAP when requested by a majority of its primary members.

C. Quorum. Meetings of the ISCAP may be held only when a quorum is present. For this purpose, a quorum requires the presence of at least five primary or alternate members.

D. Attendance. As determined by the Chair, attendance at meetings of the ISCAP shall be limited to those persons necessary for the ISCAP to fulfill its functions in a complete and timely manner.

E. Agenda. The Chair shall establish the agenda for all meetings. Potential items for the agenda may be submitted to the Chair by any member or the Executive Secretary. Acting through the Executive Secretary, the Chair will distribute the agenda and supporting materials to the members as soon as possible before a scheduled meeting.

F. Minutes. The Executive Secretary shall be responsible for the preparation of each meeting's minutes, and the distribution of draft minutes to each member. The minutes will include a record of the members present at the meeting and the result of each vote. At the subsequent meeting of the ISCAP, the Chair will read or reference the draft minutes of the previous meeting. At that time the minutes will be corrected, as necessary, and approved by the membership and certified by the Chair. The approved minutes will be maintained among the records of the ISCAP.

ARTICLE V. VOTING

A. Motions. When a decision or recommendation of the ISCAP is required to resolve a matter before it, the Chair shall request or accept a motion for a vote. Any member, including the Chair, may make a motion for a vote. No second shall be required to bring any motion to a vote. A quorum must be present when a vote is taken.

B. Eligibility. Only the members, including the Chair, may vote on a motion before the ISCAP, with each agency or office represented having one vote.

C. Voting Procedures. Votes shall ordinarily be taken and tabulated by a show of hands.

D. Passing a Motion. In response to a motion, members may vote affirmatively, negatively, or abstain from voting. Except as otherwise provided in these bylaws, a motion passes when it receives a majority of affirmative votes of the members voting. However, in no instance will the ISCAP reverse an agency's decision without the affirmative vote of at least a majority of the members present.

E. Votes in a Non-meeting Context. In extraordinary circumstances, the Chair may call for a vote of the membership outside the

context of a formal ISCAP meeting. An alternate member may also participate in such a vote if the primary member cannot. The Executive Secretary shall record and retain such votes in a documentary form and immediately report the results to the Chair and other primary and alternate members.

ARTICLE VI. FIRST FUNCTION: APPEALS OF AGENCY DECISIONS REGARDING CLASSIFICATION CHALLENGES

In accordance with section 5.4(b) of the Order, the ISCAP shall decide on appeals by authorized persons who have filed classification challenges under section 1.9 of the Order.

A. Jurisdiction. The ISCAP will consider appeals from classification challenges that otherwise meet the standards of the Order if:

1. The appeal is filed in accordance with these bylaws;
2. The appellant has previously challenged the classification action at the agency that originated or is otherwise responsible for the information in question in accordance with the agency's procedures or, if the agency has failed to establish procedures for classification challenges, by filing a written challenge directly with the agency head or designated senior agency official, as defined in section 1.1(j) of the Order;
3. The appellant has
 - (a) Received a final agency decision denying his or her challenge; or
 - (b) Not received (i) an initial written response to the classification challenge from the agency within 120 days of its filing, or (ii) a written response to an internal agency appeal within 90 days of the filing of the appeal;
4. There is no action pending in the federal courts regarding the information in question; and
5. The information in question has not been the subject of review by the federal courts or the ISCAP within the past two years.

B. Addressing of Appeals. Appeals should be addressed to: Executive Secretary, Inter-agency Security Classification Appeals Panel, Attn: Classification Challenge Appeals, c/o Information Security Oversight Office, National Archives and Records Administration, 7th and Pennsylvania Avenue, NW., Room 5W, Washington, DC 20408.

The appeal must contain enough information for the Executive Secretary to be able to obtain all pertinent documents about the classification challenge from the affected agency. No classified information should be included within the initial appeal document. The Executive Secretary will arrange for the transmittal of classified information from the agency after receiving the appeal. If it is impossible for the appellant to file an appeal without including classified information, prior arrangements must be made by con-

tacting the Information Security Oversight Office.

C. Timeliness of Appeals. An appeal to the ISCAP must be filed within 60 days of:

1. The date of the final agency decision; or
2. The agency's failure to meet the time frames established in paragraph (A)(3)(b) of this Article.

D. Rejection of Appeal. If the Executive Secretary determines that the appeal does not meet the requirements of the Order or these bylaws, the Executive Secretary shall notify the appellant in writing that the appeal will not be considered by the ISCAP. The notification shall include an explanation of why the appeal is deficient.

E. Preparation. The Executive Secretary shall notify the Chair and the designated senior agency official(s) of the affected agency(ies) when an appeal is lodged. Under the direction of the ISCAP, the Executive Secretary shall supervise the preparation of an appeal file, pertinent portions of which will be presented to the members of the ISCAP for their review prior to a vote on the appeal. The appeal file will eventually include all records pertaining to the appeal.

F. Resolution of Appeals. The ISCAP may vote to affirm the agency's decision, to reverse the agency's decision in whole or in part, or to remand the matter to the agency for further consideration. A decision to reverse an agency's decision requires the affirmative vote of at least a majority of the members present.

G. Notification. The Executive Secretary shall promptly notify in writing the appellant, the agency head, and designated senior agency official of the ISCAP's decision.

H. Agency Appeals. Within 60 days of receipt of an ISCAP decision that reverses a final agency decision, the agency head may petition the President through the Assistant to the President for National Security Affairs to overrule the decision of the ISCAP.

I. Protection of Classified Information. All persons involved in the appeal shall make every effort to minimize the inclusion of classified information in the appeal file. Any classified information contained in the appeal file shall be handled and protected in accordance with the Order and its implementing directives. Information being challenged for classification shall remain classified unless and until a final decision is made to declassify it. In no instance will the ISCAP declassify properly classified information solely because of an agency's failure to prescribe or follow appropriate procedures for handling classification challenges.

J. Maintenance of File. The Executive Secretary shall maintain the appeal file among the records of the ISCAP.

ARTICLE VII. SECOND FUNCTION: REVIEW OF AGENCY EXEMPTIONS FROM AUTOMATIC DECLASSIFICATION

In accordance with section 5.4(b) of the Order, the ISCAP shall approve, deny or amend agency exemptions from automatic declassification as provided in section 3.4(d) of the Order.

A. Agency Notification of Exemptions. The agency head or designated senior agency official shall notify the Executive Secretary of agency exemptions in accordance with the requirements of the Order and its implementing directives. Agencies shall provide any additional information or justification that the Executive Secretary believes is necessary or helpful in order for the ISCAP to review and decide on the exemption. The agency head may seek relief from the ISCAP from any request for information by the Executive Secretary to which the agency objects.

B. Preparation. The Executive Secretary shall notify the Chair of the agency submission. At the direction of the ISCAP, the Executive Secretary shall supervise the preparation of an exemption file, pertinent portions of which will be presented to the members of the ISCAP for their review prior to a vote on the exemptions. The exemption file will eventually include all records pertaining to the ISCAP's consideration of the agency's exemptions.

C. Resolution. The ISCAP may vote to approve an agency exemption, to deny an agency exemption, to amend an agency exemption, or to remand the matter to the agency for further consideration. A decision to deny or amend an agency exemption requires the affirmative vote of a majority of the members present.

D. Notification. The Executive Secretary shall promptly notify in writing the agency head and designated senior agency official of the ISCAP's decision.

E. Agency Appeals. Within 60 days of receipt of an ISCAP decision that denies or amends an agency exemption, the agency head may petition the President through the Assistant to the President for National Security Affairs to overrule the decision of the ISCAP.

F. Protection of Classified Information. Any classified information contained in the exemption file shall be handled and protected in accordance with the Order and its implementing directives. Information that the agency maintains is exempt from declassification shall remain classified unless and until a final decision is made to declassify it.

G. Maintenance of File. The Executive Secretary shall maintain the exemption file among the records of the ISCAP.

ARTICLE VIII. THIRD FUNCTION: APPEALS OF AGENCY DECISIONS DENYING DECLASSIFICATION UNDER MANDATORY REVIEW PROVISIONS OF THE ORDER

In accordance with section 5.4(b) of the Order, the ISCAP shall decide on appeals by parties whose requests for declassification under section 3.6 of the Order have been denied.

A. Jurisdiction. The ISCAP will consider appeals from denials of mandatory review for declassification requests that otherwise meet the standards of the Order if:

1. The appeal is filed in accordance with these bylaws;

2. The appellant has previously filed a request for mandatory declassification review at the agency that originated or is otherwise responsible for the information in question in accordance with the agency's procedures or, if the agency has failed to establish procedures for mandatory review, by filing a written request directly with the agency head or designated senior agency official;

3. The appellant has

(a) Received a final agency decision denying his or her request; or

(b) Not received (i) an initial decision on the request for mandatory declassification review from the agency within one year of its filing, or (ii) a final decision on an internal agency appeal within 180 days of the filing of the appeal;

4. There is no action pending in the federal courts regarding the information in question; and

5. The information in question has not been the subject of review by the federal courts or the ISCAP within the past two years.

B. Addressing of Appeals. Appeals should be addressed to: Executive Secretary, Inter-agency Security Classification Appeals Panel, Attn: Mandatory Review Appeals, c/o Information Security Oversight Office, National Archives and Records Administration, 7th and Pennsylvania Avenue, NW., Room 5W, Washington, DC 20408.

The appeal must contain enough information for the Executive Secretary to be able to obtain all pertinent documents about the request for mandatory declassification review from the affected agency.

C. Timeliness of Appeals. An appeal to the ISCAP must be filed within 60 days of:

1. The date of the final agency decision; or

2. The agency's failure to meet the time frames established in paragraph (A)(3)(b) of this Article.

D. Rejection of Appeal. If the Executive Secretary determines that the appeal does not meet the requirements of the Order or these bylaws, the Executive Secretary shall notify the appellant in writing that the appeal will not be considered by the ISCAP.

The notification shall include an explanation of why the appeal is deficient.

E. Preparation. The Executive Secretary shall notify the Chair and the designated senior agency official(s) of the affected agency(ies) when an appeal is lodged. Under the direction of the ISCAP, the Executive Secretary shall supervise the preparation of an appeal file, pertinent portions of which will be presented to the members of the ISCAP for their review prior to a vote on the appeal. The appeal file will eventually include all records pertaining to the appeal.

F. Narrowing Appeals. To expedite the resolution of appeals and minimize backlogs, the Executive Secretary is authorized to consult with appellants with the objective of narrowing or prioritizing the information subject to the appeal.

G. Resolution of Appeals. The ISCAP may vote to affirm the agency's decision, to reverse the agency's decision in whole or in part, or to remand the matter to the agency for further consideration. A decision to reverse an agency's decision requires the affirmative vote of at least a majority of the members present.

H. Notification. The Executive Secretary shall promptly notify in writing the appellant, the agency head, and designated senior agency official of the ISCAP's decision.

I. Agency Appeals. Within 60 days of receipt of an ISCAP decision that reverses a final agency decision, the agency head may petition the President through the Assistant to the President for National Security Affairs to overrule the decision of the ISCAP.

J. Protection of Classified Information. All persons involved in the appeal shall make every effort to minimize the inclusion of classified information in the appeal file. Any classified information contained in the appeal file shall be handled and protected in accordance with the Order and its implementing directives. Information that is subject to an appeal from an agency decision denying declassification under the mandatory review provisions of the Order shall remain classified unless and until a final decision is made to declassify it. In no instance will the ISCAP declassify properly classified information solely because of an agency's failure to prescribe or follow appropriate procedures for handling mandatory review for declassification requests and appeals.

K. Maintenance of File. The Executive Secretary shall maintain the appeal file among the records of the ISCAP. All information declassified as a result of ISCAP action shall be available for inclusion within the database established by the Archivist of the United States in accordance with section 3.8 of the Order.

ARTICLE IX. ADDITIONAL FUNCTIONS

In its consideration of the matters before it, the ISCAP shall perform such additional

advisory functions as are consistent with and supportive of the successful implementation of the Order.

ARTICLE X. SUPPORT STAFF

As provided in section 5.4(a) of the Order, the Director of the Information Security Oversight Office will serve as Executive Secretary to the ISCAP, and the staff of the Information Security Oversight Office will provide program and administrative support for the ISCAP. The Executive Secretary will supervise the staff in this function pursuant to the direction of the Chair and ISCAP. On an as needed basis, the ISCAP may seek detailees from its member agencies to augment the staff of the Information Security Oversight Office in support of the ISCAP.

ARTICLE XI. RECORDS

A. Integrity of ISCAP Records. The Executive Secretary shall maintain separately documentary materials, regardless of their physical form or characteristics, that are produced by or presented to the ISCAP or its staff in the performance of the ISCAP's functions, consistent with applicable federal law.

B. Referrals. Any Freedom of Information Act request or other access request for a document that originated within an agency other than the ISCAP shall be referred to that agency for processing.

ARTICLE XII. ANNUAL REPORTS TO THE PRESIDENT

The ISCAP has been established for the sole purpose of advising and assisting the President in the discharge of his constitutional and discretionary authority to protect the national security of the United States (section 5.4(e) of the Order). As provided in section 5.4(a) of the Order, pertinent information and data about the activities of the ISCAP shall be included in the Reports to the President issued by the Information Security Oversight Office. The Chair, in coordination with the other members of the ISCAP and the Executive Secretary, shall determine what information and data to include in each Report.

ARTICLE XIII. APPROVAL, AMENDMENT, AND PUBLICATION OF BYLAWS

The approval and amendment of these bylaws shall require the affirmative vote of at least four of the ISCAP's members. In accordance with the Order, the Executive Secretary shall submit the approved bylaws and their amendments for publication in the FEDERAL REGISTER.

[61 FR 10854, Mar. 15, 1996]

**PART 2002—GENERAL GUIDELINES
FOR SYSTEMATIC DECLASSIFICA-
TION REVIEW OF FOREIGN GOV-
ERNMENT INFORMATION**

Sec.

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2002.2 Definition.

2002.3 Scope.

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AUTHORITY: Sec. 3.3, E.O. 12356, 47 FR 14874,
April 6, 1982.

SOURCE: 48 FR 4402, Jan. 31, 1983, unless
otherwise noted.

§ 2002.1 Purpose.

These general guidelines for the systematic declassification review of foreign government information have been developed in accordance with the provisions of section 3.3 of Executive Order 12356, "National Security Information," and § 2001.31 of Information Security Oversight Office Directive No. 1. All foreign government information that has been incorporated into the permanently valuable records of the United States Government and that has been accessioned into the National Archives of the United States shall be systematically reviewed for declassification by the Archivist of the United States. Declassification reviews shall be conducted in accordance with the provisions of these general guidelines or, if available, in accordance with specific systematic review guidelines for foreign government information provided by the agency heads who have declassification authority over that information. All foreign government information—

(a) Not identified in § 2002.6 of these general guidelines or in specific agency guidelines as requiring item-by-item declassification review and final determination by an agency declassification authority, and

(b) For which a prior declassification date has not been established, shall be declassified as that information becomes thirty years old.

§ 2002.2 Definition.

Foreign government information as used in these guidelines means:

(a) Information provided by a foreign government or governments, an international organization of governments, or any element thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or

(b) Information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

§ 2002.3 Scope.

(a) These guidelines apply to foreign government information that has been received or classified by the United States Government or its agents, and has been incorporated into records determined by the Archivist of the United States to have permanent value.

(b) Atomic energy information (including information originated prior to 1947 and not marked as such; information received from the United Kingdom or Canada marked "Atomic," or information received from NATO marked "Atomal") that is defined and identified as "Restricted Data" or "Formerly Restricted Data" in Sections 11y and 142d of the Atomic Energy Act of 1954, as amended, is outside the scope of these guidelines. Such information is not subject to systematic review and may not be automatically downgraded or declassified. Any document containing information within the definition of "Restricted Data" or "Formerly Restricted Data" that is not so marked shall be referred to the Department of Energy Office of Classification for review and appropriate marking, except for licensing and related regulatory matters which shall be referred to the Division of Security, U.S. Nuclear Regulatory Commission.